

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 4

NOTE : Answer **ALL** Questions.

1. Ramesh, a senior executive working in Delhi, purchased a Tata Sumo vehicle from Prime Motors on 27th September, 2014 for a sum of ₹7,80,000. After getting the vehicle registered, Ramesh on 29th September, 2014 got the vehicle bearing no. DL2C-J-7250 insured comprehensively with Bright Insurance Co. for the period from 29th September, 2014 to 28th September, 2015.

On 8th November, 2014, Ramesh paid a visit to Noida for official work. He parked and locked the car on the side road adjoining the office and went for work at around 10:30 AM. After finishing his work around 3:30 PM, he came out to return to Delhi. To his surprise, he found the vehicle missing.

He searched for the car frantically and on not finding it, lodged an FIR with the Noida police station for the missing car. Next day, he also informed Bright Insurance Co., the insurer in writing about the said theft of the vehicle.

Despite vigorous efforts of the police, the vehicle could not be traced. Hence, after 90 days, the Noida police gave a non-traceable certificate/report to Ramesh, the complainant. Ramesh, thereafter, again pursued the matter of settlement of claim with the insurance company and submitted a copy of the purchase invoice of the vehicle alongwith driving license, proof of road tax payment and other relevant documents including the final report in support. Despite passage of over 21 days, the insurance company did not respond positively and kept delaying the matter on one pretext or the other.

Aggrieved by this inaction on the part of the insurer, Ramesh after five weeks, filed a complaint with the District Forum. During the pendency of the complaint, the insurance company repudiated the claim on the ground that the vehicle was being used as a Taxi by Ramesh.

The District Forum, after hearing both sides on 29th March, 2015 allowed the complainant and directed the insurance company to pay Ramesh, the insured declared value of the vehicle, i.e., ₹7,80,000 alongwith interest @ 6% p.a. from four months after the date of lodging of claim till realisation. The District Forum also awarded ₹7,000 as costs.

The insurance company, being aggrieved with this decision, filed an appeal before the State Commission. The plea highlighted the fact that the insurer was not liable to reimburse the loss of stolen vehicle as the same was being used as a taxi. This plea was rejected by the State Commission by observing that theft of the vehicle had nothing to do with the use of the vehicle. The appeal, therefore, was dismissed and the awarded amount was ordered to be released by Bright Insurance Co. to Ramesh. The insurance company being still not satisfied filed a revision petition before the National Forum. During arguments, both sides vehemently advocated their views.

Finally, it was pointed out by the counsel of the insured that in the decided case of 'National Insurance Company Ltd. vs. Nitin Khandelwal' in 2008 (CPJ ISC 2008-SEC-259), the Supreme Court had held that, "in a case where the vehicle had been snatched or stolen, the breach of condition is not germane and the insurance company is liable to indemnify the owner of the vehicle where the insured owner has obtained a comprehensive policy for the vehicle in question."

In view of the aforesaid judgment of the apex court in the earlier order of the State Commission in the 'Nitin Khandelwal case of 2008', the counsel for the insurance company did not press the point that insurer was not liable to reimburse for the stolen vehicle because it was being used as a taxi. Hence, the claim of Ramesh was finalised at 75% on 'non-standard basis' as upheld earlier by the Supreme Court in 2008 *plus* cost.

In light of the above, answer the following questions :

- (a) Do you agree with the stand taken ultimately by the insurance company to settle the claim on 'non-standard basis' ? Give reasons.

(10 marks)

- (b) In the case cited above of the apex court in 2008, the claim was finalised at 75% being 'non-standard basis'. On consideration of the totality of the facts and circumstances in such cases, the law seems to be well settled that in case of theft of a vehicle, the nature of use of the vehicle cannot be looked into and the insurance company cannot repudiate the claim on this basis. If that be the case, should such claim be settled only on 'non-standard basis' ? Comment.

(10 marks)

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- (c) Extending the logic further, could the claim of Ramesh be not settled at 100% had his counsel pressed for the same ? Elaborate with reasoning.
(8 marks)
- (d) What do you understand by 'standard claim' and 'non-standard claim' ?
(10 marks)
- (e) If you were the adjudicating authority and a case of this nature is brought before you for decision, what would be your stand ? Elaborate with reasons.
(6 marks)
- (f) Is it not desirable for insurers to implement the philosophy of 'under promise and over delivery' in settlement of claims ? Comment.
(6 marks)

2. (a) You have been appointed as the CEO of a newly started life insurance company. Indicate how you intend to market the products of the company in the Indian market. (Your answer will have to indicate the various sources available to you to market the products and your preference to any one or more of the agencies).
(10 marks)
- (b) Kapil purchased an automobile service station from Vimal. The purchase price included the costs of building, equipment and other assets. The business was financed by a loan taken by Kapil from a scheduled bank, which also held a mortgage of the building. Kapil, after purchase, converted one of the car-repair bays into a quick-service restaurant. Kapil had secured an insurance cover on the property but did not disclose to the insurer about the conversion. Six months after the commencement of the business, a car undergoing servicing at the station caught fire and damaged the roof over a bay in the service station area.

From the above information, answer the following questions with reasons in brief :

- (i) Who had insurable interest in the property at the time of fire ?

(2 marks)

- (ii) Vimal told Kapil that in order to save money, Kapil could takeover Vimal's insurance cover instead of buying a new policy. Would it have been appropriate to do this, without Vimal's insurer being informed ?

(2 marks)

- (iii) Investigation into the fire accident revealed that the car owner knew that the vehicle's gas tank had a leak but this was not disclosed to Kapil when the car was left for service. Will the principle of subrogation apply in this case ?

(2 marks)

- (iv) Did Kapil show utmost good faith when he applied for property insurance ?

(2 marks)

- (v) Could Kapil's insurer deny coverage for fire on the basis of material misstatement of facts ?

(2 marks)

- (c) What do you mean by 'nomination' ? Explain the difference between 'nomination' and 'assignment' of an insurance policy.

(10 marks)

3. Define the concept and nature of a 'cover note' under a general insurance agreement.

(5 marks)

4. What is the amount of compensation payable under the Motor Vehicles Act, 1988 in respect of death of any person ?

(5 marks)

5. What are the liabilities that require a compulsory cover under a policy of motor insurance ? Discuss.

(5 marks)

6. State the exclusions as regards a fire insurance policy.

(5 marks)